IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 37070 of 2007(K)

PETITIONER:

K.A.EARNEST, PARTNER,
JOY BROTHERS, IBP DEALER,
PALLIPORT P.O., MUNAMBAM,
ERNAKULAM - 683 515.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.T.S.SHYAM PRASANTH

RESPONDENT:

INDIAN OIL CORPORATIN LTD.,
COCHIN DIVISIONAL OFFICE,
PANAMPILLY AVENUE,
PANAMPILLY NAGAR.P.O.,
KOCHI - 682036, REPRESENTED BY ITS
CHIEF DIVISIONAL RETAIL SALES MANAGER.

BY ADV. SRI.E.K.NANDAKUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C) No. 37070 of 2007(K)

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Dated this the 14th day of December, 2007

JUDGMENT

The petitioner's contention is that on the ground of failure of marker test in the petitioner's brother's outlet, the supply to the petitioner's outlet has been stopped. The petitioner, therefore, seeks following reliefs:

> "i) issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondent to consider Ext.P3 and pass appropriate orders after notice and opportunity for hearing to the petitioner and take appropriate action for resumption of sales and supply to the marine diesel outlet covered by Ext.P1 Inspection Report;
> ii) issue such other and further relief as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;
> iii) award costs of this Petition."

2. The learned standing counsel appearing for the respondent submits that there is only one licence for both the outlets and therefore, which is in the name of the firm of which both brothers are partners and therefore, the petitioner cannot escape from the liability in respect of the outlet run by his brother. I am not going into

the rival contentions. Ext. P4 show cause has been issued, In the meanwhile the petitioner has also filed Ext.P3. In the above circumstances, I direct the respondent to consider Ext.P3 also along with the reply to the Ext.P4 show cause notice. The final orders in this regard shall be passed within one .... from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

S.SIRI JAGAN,
JUDGE

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